

LEGISLATIVE COUNCIL

Senate Majority Caucus Room

Boise, Idaho

May 25, 2005

MINUTES

The meeting was called to order at 9:00 a.m. by Pro Tem Robert L. Geddes, co-chair. The following members of the Legislative Council were present: Speaker Bruce Newcomb, co-chair; Senators Bart Davis, Patti Anne Lodge, Dick Compton, Clint Stennett, Elliot Werk and David Langhorst; and Representatives Lawrence Denney, Frances Field, Gary Collins, Wendy Jaquet and Elaine Smith. Representative Mary Lou Shepherd was absent and excused. Also in attendance or participating in the meeting were Senator Joe Stegner, Senator Mike Jorgenson, Representative Jim Clark, Jeannine Wood, Pamm Juker, Mary Sue Jones, Jeanne Ludwig, Mike Ferguson, Kent Kunz, Rakesh Mohan, and Peter Morrill. Legislative Services Office staff in attendance included Jeff Youtz, Mike Nugent, Ray Ineck, Eric Milstead, Matt Freeman, Jason Hancock, Ray Houston, Dick Burns, Kristin Ford, Susan Bennion, Carl Bianchi and Sheila Ison.

Senator Davis advised Council members that at the appropriate point in the meeting he would ask the Council to discuss the possibility of having the Office of Performance Evaluations research issues related to higher education costs.

2005 SESSION DEBRIEFING

The Council discussed legislation workloads, and heard that members had received RS packages within five working days in 97.95 percent of their bill drafting requests. In discussing large-scale agency bill drafts, Mike Nugent was asked to follow up with the Division of Financial Management and the Governor's Office to improve the process of drafting lengthy agency bills. Jeff Youtz reported that all 110 appropriation bills had been drafted within five working days of final Joint Finance-Appropriations Committee (JFAC) decisions, that no bills were returned because of error. JFAC hit all of its target dates during the session, and new technology developed by staff has improved the accessibility to JFAC hearing records. Senator Lodge thanked Jeff and Larry Eld for the new monitors in JFAC, which have improved the ability of members to follow proceedings and work at their JFAC desks. Jeff praised the new members of JFAC and said that JFAC had continued the collaborative bipartisan effort, particularly on Medicaid issues, and that the expanded, full week hearing on the Department of Health and Welfare appropriation requests had been a success.

Senator Compton felt that the new Senate committee meeting schedule had contributed to a "cross pollination" of ideas between JFAC and germane committees, and it turned out to be a good idea. He thought the week-long review of Health and Welfare was a great idea, proved by the fact that at the end of the session both JFAC and Health and Welfare deemed it a success. Rep. Field felt that the Budget and Policy Analysis staff is the "best in the United States," and that they have provided members with the answers they need during the session and during the interim. There was some discussion of whether, following JFAC's lead, digital recordings ought to be made of standing committee meetings; however, current House and Senate rules limit audiotape usage as a record of

committee actions and deliberations.

Senator Lodge observed that there had been some use of legislative copy machines by others than legislators or legislative staff. Pro Tem Geddes acknowledged that, with the necessity for stationing copy machines in public areas, this is a concern, but that steps are being taken to make others aware of limitations and to encourage them not to use state equipment. Senator Compton suggested that the next Legislature should reinforce understanding of legislative policies on appropriate Internet use on state computers, and the Pro Tem indicated this would be done. Speaker Newcomb observed that, from the Speaker's chair, there is a marked difference in the appearance of the House due to the advent of laptop computers and the disappearance of the bill books. Senator Werk cited the usefulness of Spokesman Review reporter Betsy Russell's blog (Web log, which is located at <http://www.spokesmanreview.com/boise/blog.asp>) during the session and was joined by others praising the blog as resource for legislators. Senator Lodge said that having Information Center staff eliminate spam e-mail was also a great help during the session. Representative Jaquet suggested that more use could be made of high school pages in answering phones in the Information Center, and Senator Lodge thought that this year's pages were well trained and the best ever.

The Council then discussed whether statements of purpose should be revised when a bill is amended in a way that renders the statement of purpose inaccurate or incomplete. Senator Davis thought this could be handled under existing Joint Rule 18, by allowing any member to challenge the sufficiency of a statement of purpose (SOP) or fiscal note at any time prior to passage, except upon introduction. Other Council members suggested either changing the SOP or noting with an asterisk or otherwise indicating that the SOP had changed. Jeannine Wood and Pamm Juker explained current practices and noted the importance of determining who is authorized to change an SOP. Speaker Newcomb thought you could request the original sponsor to make the change, while Senator Davis suggested a correction to the SOP could be added when the title is corrected after an amendment. Senator Stennett suggested that, as amendments are proposed, legislators should include amended SOPs, and then have the amended SOP follow the bill. Senator Langhorst supported that suggestion, and added that the SOP could still indicate that it had been amended. On a motion by Representative Jaquet, seconded by Senator Compton, Jeannine Wood and Pamm Juker were asked to look into the options and possibilities on amending SOPs, as well as whether such a change would require a rules change, with assistance from Carl Bianchi, and that their suggestions be sent out to Council members in advance of the fall meeting.

In response to a written suggestion from Representative John Rusche, there was a consensus that standing committee chairs be reminded of the opportunity for interactive committee hearings to allow testimony on major issues from remote locations around the state. It was also agreed that committee chairs be reminded of the 36-day deadline for nonprivileged committees and the impact of that deadline on committee hearings for introduction.

REVENUE REPORTS AND GENERAL FUND STATUS

Jeff Youtz presented an update on April revenue reports and FY 2005 closing projections, as well as FY 2006 and 2007 scenarios based on current estimates. Jeff said that estimates are now showing the one-time one percent CEC for state employees will be able to be paid in FY 2006. He said that this was the best budget scenario we've seen in the last three or four years. The Governor's revised revenue estimates will be available in August, and Jeff will keep Council members apprised of any

new developments.

LEGISLATIVE COUNCIL APPOINTMENTS TO INTERIM STUDY COMMITTEES

Pro Tem Geddes advised Council members that, encouraged by Idaho universities, he and Speaker Newcomb had formed a Biotechnology Task Force. They have also formed a task force to look into Capitol restoration, and the Environmental Common Sense Task Force will be continued. Council members then turned to determining the size and party proportion of the six interim study committees authorized by the Legislature. After a series of motions and a break for lunch, the Council reconvened and formally appointed the interim study committee members. The full list of interim study committee membership and a list of staff appointed to serve the committees is attached to these minutes.

OTHER APPOINTMENTS

The Council then confirmed the legislative membership to the Idaho Housing and Finance Association, the co-chairs of the Joint Legislative Oversight Committee, the Pacific Fisheries Legislative Task Force, the Pacific States Radioactive Materials Transportation Committee and the Idaho Food Quality Assurance Institute. Additionally, the Pro Tem and Speaker advised the Council on the members they had appointed to the Capitol Restoration Task Force, the Substance Abuse Initiative Oversight Committee, the Idaho Council on Indian Affairs, the Health Care Task Force / High-Risk Reinsurance Pool Board and the Joint Millennium Fund Committee. The following members were appointed to the newly formed Biotechnology Task Force:

Sen. Gary Schroeder, Co-chair	Rep. Doug Jones, Co-chair
Sen. Hal Bunderson	Rep. Darrell Bolz
Sen. Chuck Coiner	Rep. Ann Rydalch
Sen. Russell Fulcher	Rep. Frank Henderson
Sen. Bert Marley	Rep. Nicole LeFavour

REPORT OF PILOT TEST ON VIDEO STREAMING OF CHAMBER PROCEEDINGS

Peter Morrill, general manager of Idaho Public Television, reported to the Council on the results of the "Web Cam Pilot Test" conducted during the legislative session to provide video streaming over the Internet of Senate and House chamber debates. Peter said this was a collaborative effort between Idaho Public Television, the Legislative Services Office and the Department of Administration, utilizing one fixed camera in each chamber. At one point during the eight-week test, video streaming was suspended, and an online survey was conducted to determine whether the video was useful and whether listeners preferred having the video in addition to the current audio streaming. Council members were provided with the results of the survey, which can be summarized to conclude that the pilot was successful, and that individuals do want to see this service continued and improved. Peter Morrill also reported that overall use of the streaming service is significant: During the 2005 session, over 14,000 individuals used the audio and video streaming for an average time of 39 minutes per each user. He feels there is a real need for making this service available and even better in our diverse, spread-out state. Video streaming could be improved by installing multiple automated

cameras in each chamber, operated by IPTV interns, which could stream video over the Internet and provide digital broadcast coverage to Public Television and possibly to cable, as a C-SPAN type of broadcast. In response to a question from Senator Lodge, Peter said the cost of the pilot video streaming test was about \$1,000 per camera, plus a lot of “sweat equity.” He went on to say that the cost of multiple automated cameras capable of zooming in for close shots might reach several hundred thousand dollars. On a motion by Representative Jaquet, seconded by Representative Smith, Legislative Council asked Peter Morrill to talk with his collaborative partners in an effort to continue to provide video streaming during the 2006 session. The Council thanked Peter for his efforts and also for providing video streaming of the off-site Nez Perce Water Agreement hearings during the 2005 session.

OPE INFORMATION BRIEFING

Rakesh Mohan, director of the Office of Performance Evaluations briefed the Council on four current OPE projects:

- < School for the Deaf and the Blind
- < Substance abuse treatment services (including the new Access to Recovery grant) and the coordination among various agencies for providing these services
- < Management of the Department of Health and Welfare
- < Lessons learned from ISIMS (Idaho Student Information Management System)

In response to a question from Senator Langhorst on whether OPE was looking at local substance efforts as well as state program, Rakesh said OPE was trying to look at local level services also, to know what capacity exists at the local level.

Senator Davis asked the Council to consider issues related to the cost and expenses of higher education. Today, he noted, it is common for graduates to walk away from institutions of higher learning with thousands of dollars of debt, being unable to pay that back, or having to change their quality of life as a result. He feels state legislatures may be falling down on funding higher education and providing for the education of students at different economic levels, affecting their ability to attend college. He urged the Legislative Council to join him in trying to obtain a better understanding objectively of what’s happened over the last 25 years and to seek that information from the Office of Performance Evaluations. Senator Stennett added that he was concerned not only about the costs of people who attend college, but about those potential students who never get to college, who are being cut off by the expense of higher education. Rakesh said that in order for OPE to look into these issues, they would need a narrow focus in writing, and would need to know whether examination should include just colleges, or also community and technical schools, or even high schools. He indicated that, because of other projects, the soonest OPE would be able to embark on such a project, subject to Joint Legislative Oversight Committee approval, would be at least mid-winter of 2006.

The Council approved a motion by Senator Davis, seconded by Senator Stennett, that Senator Davis and Senator Stennett, with assistance from Carl, propose a letter outlining the nature of the request for a study relating to higher education, defining the institutions (universities, professional and technical) and what we are looking for, relating to costs, inflation and other causes for the financial

pressures that have been created in recent years, and that the proposed letter be circulated in advance and be brought before the Council at its November meeting. Senator Compton noted that there should be a wealth of information available in publications and through universities, and the Pro Tem added his interest in evaluation of Idaho's education system as compared to other Western states.

2010 CENSUS AND REDISTRICTING UPDATE

Under Idaho Code, Section 72-1507, Legislative Council is required to furnish secretarial and other staff assistance to the constitutionally created Commission for Reapportionment. Kristin Ford, who has been designated as Idaho's liaison with the U.S. Census Bureau, reported on the schedule that will lead up to legislative redistricting following the 2010 federal census. The Census Bureau is moving to establish early, open channels with states, and will hold a June 7 briefing meeting in Boise at the Capitol Building, as part of its efforts to travel to each state capitol. Pro Tem Geddes noted that some legislators had suggested modifications of the existing redistricting requirements, and encouraged anyone with concerns to bring them forward in the next session of the Legislature. In response to a question from Representative Jaquet, Kristin noted that the Census Bureau briefing would include information about how census results might impact federal funds.

Following Kristin's presentation, the Council formally recognized and commended Susan Bennion for her 36 years of service to the Idaho Legislature, including her guidance through three reapportionment and redistricting efforts, and wished her well in her upcoming retirement.

FUTURE MITIGATION OF ECONOMIC IMPACT FROM RECENT WATER AGREEMENTS AND LEGISLATION

Senator Stennett noted that as part of the Nez Perce Agreement, a component for local government was included for loss of flow rights and that there was an opportunity for economic aid to be given to impacted communities. On his motion, seconded by Representative Smith, the Council unanimously agreed to request the director of the Department of Commerce and Labor to consider promulgating rules to facilitate the:

- < *Identification* of local impacts that result from the rental of water for flow augmentation, which, based on the state's acquisition of Bell Rapids for the purpose of flow augmentation, specifically involves the communities of Buhl and Hagerman; and
- < *Distribution* of the \$2 million federal payment to the local governments to compensate for the impacts pursuant to the terms of the Snake River Flow Component of the Nez Perce Agreement.

Senator Stennett said he thought the department could set up a grant application process for mitigation, and in response to a question from Representative Field, that that could include other communities that might be impacted, and that the department would set rules and priorities.

MISCELLANEOUS

At the request of the Pro Tem, John Sandy briefed the Council on developments in the Billingsley

Creek area and on general plans for research involving the University of Idaho and possibly the U.S. Department of Agriculture. Senator Davis made a motion, to general agreement, that the Legislative Council recognizes the value and the common benefits that can come from aquiculture research and conservation biology study, and should research efforts be successful, individual members of the Council would work in good faith to support such research. In response to questions about the current bonding structure of facilities in the Billingsley Creek area, Carl Bianchi was asked to contact the Bond Council and obtain further information.

On a motion by Senator Lodge and a second by Representative Smith, the minutes of the Council's November 5, 2004, meeting were approved with one correction requested by Senator Davis. (A copy of the page of the minutes that contains this correction is attached to these minutes.)

The next meeting of the Legislative Council was set for Thursday, November 10. Senator Davis alerted Council members that he will request the Council to return at that meeting to a subject previously discussed by the Council — creating a joint rule to address when committees can go into executive session.

The meeting adjourned at 4:30 p.m.

2005 Interim Study Committees and Task Forces

Cervical Cancer Elimination

SCR 110

Sen. Joyce Broadsword, Co-chair	Rep. Bob Ring, Co-chair
Sen. Kate Kelly	Rep. Donna Pence

Energy, Environment and Technology

HCR 16

Sen. Brent Hill, Co-chair	Rep. George Eskridge, Co-chair
Sen. Patti Anne Lodge	Rep. Maxine Bell
Sen. Tom Gannon	Rep. Steve Smylie
Sen. Curt McKenzie	Rep. Joseph Cannon
Sen. Mike Jorgenson	Rep. Ken Andrus
Sen. Clint Stennett	Rep. Bob Nonini
Sen. Elliot Werk	Rep. Elaine Smith

Human Trafficking

HCR 18

Sen. Denton Darrington, Co-chair	Rep. Debbie Field, Co-chair
Sen. Dick Compton	Rep. Carlos Bilbao
Sen. Edgar Malepeai	Rep. Donna Boe

State Employee Compensation

HCR 22

Sen. Dean Cameron, Co-chair	Rep. Robert Schaefer, Co-chair
Sen. John Andreason	Rep. Larry Bradford
Sen. Joe Stegner	Rep. Ken Roberts
Sen. Gerry Sweet	Rep. Rich Wills
Sen. John McGee	Rep. Jana Kemp
Sen. Bert Marley	Rep. Anne Pasley-Stuart
Sen. Kate Kelly	Rep. Shirley Ringo

Property Tax

HCR 23

Sen. Shawn Keough, Co-chair	Rep. Dennis Lake, Co-chair
Sen. Stanley Williams	Rep. Bill Deal
Sen. Monty Pearce	Rep. Mike Moyle
Sen. John Goedde	Rep. Gary Collins
Sen. Tim Corder	Rep. Eric Anderson
Sen. Elliot Werk	Rep. Wendy Jaquet
Sen. David Langhorst	Rep. George Sayler

Natural Resources

HCR 23

Sen. Don Burtenshaw, Co-chair	Rep. Dell Raybould, Co-chair
Sen. Gary Schroeder	Rep. Jim Clark
Sen. Brad Little	Rep. Bert Stevenson
Sen. Chuck Coiner	Rep. Scott Bedke
Sen. Clint Stennett	Rep. Wendy Jaquet
	Rep. Jack Barraclough (Ad Hoc)
	Rep. Mike Moyle (Ad Hoc)
	Rep. Pete Nielsen (Ad Hoc)
	Rep. Donna Pence (Ad Hoc)

Biotechnology Task Force

Sen. Gary Schroeder, Co-chair	Rep. Doug Jones, Co-chair
Sen. Hal Bunderson	Rep. Darrell Bolz
Sen. Chuck Coiner	Rep. Ann Rydalch
Sen. Russell Fulcher	Rep. Frank Henderson
Sen. Bert Marley	Rep. Nicole LeFavour

Capitol Restoration Task Force

Sen. Robert Geddes, Co-chair	Rep. Bruce Newcomb, Co-chair
Sen. Bart Davis	Rep. Lawrence Denney
Sen. Joe Stegner	Rep. Mike Moyle
Sen. Brad Little	Rep. Julie Ellsworth
Sen. Mike Burkett	Rep. Wendy Jaquet

Pam Aherns (Ad Hoc)

Carl Bianchi (Ad Hoc)

2005 Interim Staff Assignments

Interim Committees	Staff Assignments
SCR 110 – Cervical Cancer Elimination (limited to two meetings)	Primary: Maureen Ingram Backup: Susan Bennion Support: Charmi Arregui
HCR 16 – Energy, Environment and Technology (two-year committee)	Primary: Mike Nugent Backup: Caralee Lambert Support: Toni Hobbs
HCR 18 – Human Trafficking (limited to two meetings)	Primary: Caralee Lambert Backup: Susan Bennion Support: Charmi Arregui
HCR 22 – State Employee Compensation	Primary: Matt Freeman Backup: M. Ingram, S. Bennion Support: Charmi Arregui
HCR 23 – Property Tax	Primary: Mike Nugent Backup: Maureen Ingram Budget: Jason Hancock Support: Toni Hobbs
HCR 25 – Natural Resources (two-year committee)	Primary: Katharine Gerrity Backup: Caralee Lambert Budget: Ray Houston Support: Toni Hobbs
New Task Forces	
Biotechnology	Primary: Maureen Ingram Support: Toni Hobbs
Capitol Restoration	Primary: Eric Milstead, Jeff Youtz Support: Lisa Kauffman

CORRECTION TO MINUTES OF 11/05/04 COUNCIL MEETING

(See 2ND Paragraph, PRESS CLUB LAWSUIT,)

legislative process. Since that time, the Legislature's Web site has been redesigned and expanded. Starting a little over a year ago, legislative staff began an effort to remodel the Web site, taking into account the requirements of HCR 56 (2002), which requires state agencies to make their Web sites more accessible to people with disabilities. LSO's Sheila Ison coordinated the effort along with LSO staff members Brenda Wilkening, Soren Jacobsen, Larry Eld and Rande Trueax, and with the help of the Dept. of Administration's Jon Eckerle and Cheryl Marsh. Sheila reported that the new Web site is designed to meet accessibility standards, as well as to be easier for legislators to use. The new URL address for the site — legislature.idaho.gov — is in accordance with new Web standards for naming government sites, and will likely be easier to remember than the address of the current site. Representative Shepherd hoped that the search feature of the Web site could be improved, and LSO staff will look into alternative search engines. The other features of the new Web site were demonstrated for Council members, and the new database approach to updating information was explained. Following the organizational session, the legislative database will be updated and the new Web site will go online following notice to legislators alerting them to the changes.

PRESS CLUB LAWSUIT

Council members heard an update on the status of the Idaho Press Club's suit against the Legislature to prohibit legislative committees from holding executive sessions. Fourth District Judge Kathryn Sticklen has issued an opinion granting a motion by the Legislature to dismiss the Press Club's complaint. Judge Sticklen found that the Idaho Constitution does not prohibit legislative committees (other than the Committee of the Whole) from meeting in executive session. She held that the Legislature has the authority to adopt rules to govern standing committee activities, including voting to go into executive session to discuss, for example, litigation.

Senator Kennedy stated that this decision will not be a popular opinion with the public. He will not be surprised if the decision is appealed by the Press Club, and noted there is still a conflict between the Legislature's rules and a section of the Idaho Code. Senator Davis pledged to keep meetings open and to use executive sessions only on a rare or limited basis, such as to discuss lawsuits. He said he would make sure committee chairs understood the rules — "The people's business will be done the people's way." Speaker Newcomb agreed that executive sessions of standing committees should be used only to discuss litigation or negotiating formal agreements involved in litigation. He thought that if the decision is appealed and decided by the Supreme Court, the Legislature should clarify its rules; in the meantime, executive sessions should just be used for attorney/client privilege and legal settlement negotiations. In no way will this change our practice, he said, "We will not close meetings."

CAPITOL ANNEX PROJECT

Carl Bianchi reviewed the events during the period 1995 - 1999, leading up to the purchase of the former Ada County Courthouse through the Idaho State Building Authority, as well as failed efforts of the Legislature during the 2001 and 2002 legislative sessions to agree upon a remodel and construction plan. The Legislature began formal requests in August 2001 to obtain larger, modern hearing rooms outside of the restricted space of the Capitol Building, in order to better accommodate public participation in legislative hearings. Carl then reported to the Council on various financial